

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JIE DONG and GUOHUI LIN,

Plaintiffs,

– against –

MERRICK GARLAND, ALEJANDRO
MAYORKAS, UR M. JADDOU, and PATRICIA :
MENGENS, :

Defendants.
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:
:
: **ORDER ADOPTING REPORT**
: **AND RECOMMENDATION**

: 23-CV-1137 (AMD)
:

ANN M. DONNELLY, United States District Judge:

On February 9, 2023, the *pro se* plaintiffs brought this petition for a writ of mandamus seeking to have a United States Citizenship and Immigration Services officer determine their immigration status. (ECF No. 1.)

On July 31, 2023, the Court issued an order directing the plaintiffs to file proof of service upon the U.S. Attorney for the Eastern District of New York, pursuant to Rule 4(i)(1) of the Federal Rules of Civil Procedure, by August 31, 2023. (*ECF Order dated July 31, 2023.*) The plaintiffs did not do so. On October 3, 2023, Magistrate Judge Taryn Merkl ordered the plaintiffs to file proof of service by November 2, 2023, and informed the plaintiffs that “continued failure to serve the U.S. Attorney’s Office will result in this Court’s recommendation that the action be dismissed without prejudice.” (ECF No. 6 at 2 (citing Fed. R. Civ. P. 4(m)).) The plaintiffs did not file proof of service by November 2, 2023, and still have not done so. Accordingly, on December 5, 2023, Judge Merkl recommended in a report and recommendation that the case be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil

Procedure. (ECF No. 7.) No objections have been filed to the report and recommendation, and the time for doing so has passed.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quotation marks omitted).

I have carefully reviewed Judge Merkl’s report and recommendation and find no error. Accordingly, I adopt the report and recommendation in its entirety and order that the complaint be dismissed without prejudice.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
January 26, 2024